

US APPLICATION NO. 10/767,469

Amendment and Response to Restriction Requirement and Election of Species

ATTNY DKT: Q79516

REMARKS

In response to the Restriction and Election of Species Requirement, dated November 4, 2005, Applicant elects Group 1, claims 1-8 for examination. In response to the Examiner's election of species requirement, Applicant elects Species A, input inputted with a direction searching command for examination on which claims 1-5 are readable. Further, regarding the election of species requirement, Applicant elects a key only as an input unit that is recited in claim 2, and a light emitting diode only as the second display that is recited in claim 4. It is believed that claims 1-5 are readable on both of the above-elected species. This election is made with traverse.

MPEP § 803 provides that if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits. In the Office Action, the Examiner indicates that the claims of Groups I, II, and III are classified in separate subclasses. Notwithstanding the manner in which subject matter may be classified in the USPTO for search purposes, which in any event is not determinative of dependent and distinct inventions within the Statute or the Rules, the claims of Groups I, II, and III are so inextricably interrelated that no group of claims can be comprehensively examined without also searching those areas in which the other groups are classified. Claims 1-8 of Group I and claims 9-12 of Group II are respectively drawn to a portable device and method thereof. Similarly, claims 1-8 of Group I and claims 16-20 of Group III are drawn to different embodiments of the portable device.

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As for the species election, the Examiner pointed out that the additional requirement is to facilitate examining due to the broad range of claims. However, the input unit and the second display are not extremely complex members of the present invention. The input unit of claim 1 is described to include various input units. In other words, the input unit of claim 1 refers to a broader category of the input units, such as the mouse, the touch screen, the key, the keyboard and the microphone. Likewise, the second display also indicates a broader category of the output elements, such as the LED and the speaker. Accordingly, although the invention is not limited to only one input unit and only one display, the examination should not be more difficult because the input unit and the second display are defined broadly.

Moreover, while acquiescence in a restriction requirement and the attendant filing of a Divisional application to prosecute claims 9-25 surely represents the "path of least resistance", the cumulative government filing, issue and maintenance fees alone involved in pursuing such course of action currently totals almost \$8000, which seems a high price indeed to spare the examiner from whatever additional search may be necessary.

In view of the foregoing, Applicant requests that the requirement be withdrawn upon reconsideration.

Applicant notes that if any of the elected claims are found to be allowable, claims dependent therefrom should similarly be considered allowable in the same application.

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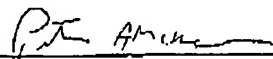
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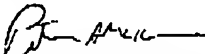

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Date: December 5, 2005

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the above identified correspondence is being facsimile transmitted to Examiner TO, TUAN C. at the Patent and Trademark Office on December 5, 2005 at 571-273-8300.

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